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**TONY KNOWLES, GOVERNOR**

**DEPARTMENT OF COMMERCE AND  
ECONOMIC DEVELOPMENT**

**ALASKA PUBLIC UTILITIES COMMISSION**

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EX PARTE OR LATE FILED

May 6, 1998

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
Room 222  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: CC Docket No. 96-45 Ex Parte Filing

Dear Ms. Salas:

Enclosed are an original and eleven copies of a letter I have sent to each Commissioner of the Federal Communications Commission. This letter concerns universal service support for rural health care providers in Alaska.

Sincerely,



Sam Cotten, Chairman

0411  
DOE

# STATE OF ALASKA

## DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

ALASKA PUBLIC UTILITIES COMMISSION

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EX PART OR LATE FILED

May 6, 1998

The Honorable William E. Kennard  
Chairman  
Federal Communications Commission  
1919 M Street, N.W., Room 814  
Washington, DC 20554

The Honorable Susan Ness  
Commissioner  
Federal Communications Commission  
1919 M Street, N.W., Room 832  
Washington, DC 20554

The Honorable Michael K. Powell  
Federal Communications Commission  
1919 M Street, N.W., Room 844  
Washington, DC 20554

The Honorable Harold Furchtgott-Roth  
Commissioner  
Federal Communications Commission  
1919 M Street, N.W., Room 802  
Washington, DC 20554

The Honorable Gloria Tristani  
Commissioner  
Federal Communications Commission  
1919 M Street, N.W., Room 826  
Washington, DC 20554

Dear Commissioners:

The Alaska Public Utilities Commission (APUC) requests your assistance in a matter of extreme importance affecting whether rural health care providers (RHCPs) in Alaska and other parts of the country will be unduly denied the benefits of the federal universal service program.

The Federal Communications Commission (FCC) concluded that under section 254(h)(1)(A) of the Act, "any telecommunications service of a bandwidth up to and including 1.544 Mbps that is necessary for the provision of

health care services is eligible for support."<sup>1</sup> This FCC definition of "necessary service" by inspection, includes both interexchange and local services up to the 1.544 Mbps rate. Depending upon how the FCC interprets its regulations, RHCPs may be denied federal funding for qualifying interexchange services.

Throughout Alaska, interexchange and local telecommunications services in rural areas are provided by separate companies. When rural local service first occurred in Alaska in the 1970's, no one company was willing and able to provide local service to the entire state. Instead, several relatively small, local carriers served rural Alaska. None of these local exchange carriers currently provide interexchange services nor do they own interexchange facilities.<sup>2</sup> Similarly, no interexchange carriers provide any material level of local service in rural Alaska.

The FCC's rural health care regulations do not appear to easily handle a structure such as occurs in Alaska. Under the FCC's regulations, only an Eligible Telecommunications Carrier may receive RHCP support:

Only eligible telecommunications carriers ... shall receive universal service support distributed pursuant to subpart G [Rural Health Care] of this part.<sup>3</sup>

Furthermore, to be deemed eligible a carrier must, among other things, offer the section 47 CFR Subpart B<sup>4</sup> services, many of which are local services.<sup>5</sup>

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<sup>1</sup>CC Docket No. 96-45, Report and Order, at 608, released May 8, 1997. Certain Internet services are also supported, but entities need not be "eligible" carriers to receive funding.

<sup>2</sup>The primary exception to this is United Utilities, Inc., which holds a 50% ownership interest in some of the earth stations of Alascom, Inc., the dominant long distance company in Alaska.

<sup>3</sup>47 CFR 52.201(a)(3).

<sup>4</sup>47 CFR 52.201(d)(1).

<sup>5</sup>Subpart B services include a) voice grade access to the public switched network, b) local usage, c) dual tone  
(continued...)

In Alaska no interexchange carrier provides local service to rural areas. The APUC therefore concluded under the FCC regulations, only local carriers could be declared eligible carriers for purposes of receiving federal universal service funding for RHCP services.<sup>6</sup> Details of our analysis is provided through the attached order.

After review of the Telecommunications Act of 1996, and the FCC regulations, the APUC adopted an eligible carrier structure which we believed both consistent with FCC requirements and effective in allowing qualifying RHCPs to receive the universal service benefits for interexchange services.<sup>7</sup> As only Local Exchange Carriers (LECs) could be designated as eligible carriers, they were given the responsibility to repackage end-to-end service, including interexchange services, to RHCPs and take administrative actions necessary to arrange for federal universal service support. A portion of the federal funding received by the LEC would ultimately be distributed back to the underlying facilities based carriers providing the interexchange links to the RHCP. It was the APUC's understanding that this approach was an acceptable alternative to the FCC.

Doubt has recently arisen as to whether the APUC's eligible carrier structure, as it relates to rural health care, would be deemed consistent with federal policy. On March 5, 1998, the FCC released DA 98-457, outlining Additional Frequently Asked Questions on Universal Service for Rural Health Care Providers (FAQ).

This FAQ discusses non-eligible carrier's receipt of support for rural health care services:

If an eligible telecommunications carrier that signs

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<sup>5</sup>(...continued)  
multi-frequency signaling or its functional equivalent,  
and d) single-party service or its functional equivalent.

<sup>6</sup>The FCC has yet to rule on the APUC's pending petition for reconsideration of the requirement that RHCP eligibility be linked to provision of local services.

<sup>7</sup>A full description of the APUC's adopted structure is discussed in the attached Order.

a contract for service with a rural health care provider must partner with an ineligible telecommunications carrier to complete the circuit the rural health care provider has ordered, universal service support will not be allocated for that portion of the circuit that is served by an ineligible telecommunications service provider.<sup>8</sup>

Depending upon how the FAQ is interpreted, the APUC's structure may or may not comply with FCC policy.

The key issue affecting Alaska and other states is how the FCC will treat those interexchange portions of the RHCP circuit when the underlying facilities based carrier is not an eligible carrier under FCC regulations. This issue might seldom occur in areas where toll and local service was received from a single large carrier such as commonly is the case in the contiguous United States (CONUS). In CONUS, a requirement that a carrier provide local service in order to be eligible for interexchange rural health care service support could easily be met by a large RBOC.

Employing separate interexchange and local companies should not prevent RHCPs from receiving universal service support. It would be arbitrary and discriminatory to deny Alaskan or any rural state's RHCPs the benefits of universal service merely because carriers in that state are not structured like the CONUS norm. The APUC seeks FCC assistance in assuring that RHCPs receive fair and reasonable access to federal funding.

The APUC believes the FCC Staff are aware of the above problem and are working diligently to ensure fair and reasonable treatment of all RHCPs. Your assistance to make this issue a priority however will ensure that RHCPs are not accidentally denied the benefits of the federal universal service program merely because an interexchange carrier is involved in provision of service. A decision on this matter before the close of the 75 day window of opportunity for filing the first round of RHCP applications would be critical to ensuring RHCPs are not disadvantaged.

Clearly, Alaska and other states need to know the FCC is committed to clarifying its policy, and to the extent there are issues, resolving them. The APUC seeks

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<sup>8</sup>CC Docket No. 96-45, DA 98-457, Additional Frequently Asked Questions on Universal Service for Rural Health Care Providers, at 8, March 5, 1998.

affirmation that the Alaska structure for providing services to RHCPs is consistent with FCC policy and will allow RHCPs to receive the benefits of federal support for the interexchange portion of their service. If the APUC's structure for providing universal service support to RHCPs is unacceptable, then the APUC must consider requesting a waiver to allow its eligible LECs to receive universal service funding for service packages provided to RHCPs, including the interexchange links provided by non-eligible carriers.

Expedited resolution of these issues is critical. Few carriers will be willing to provide discounted services to RHCPs while there remains uncertainty over whether federal funding will pay for the discount. Unresolved issues may delay processing and approval of RHCP funding requests. Numerous RHCPs in Alaska and other states are therefore at an extreme disadvantage until this matter is resolved. The APUC requests the FCC take expeditious action to ensure that all RHCPs are able to receive comparable universal service benefits in a timely manner.

I appreciate your time and consideration of these issues. Please do not hesitate to contact the APUC if you require further information or assistance on this matter.

RESPECTFULLY SUBMITTED this 6th day of May, 1998.



By: Commissioner Sam Cotten  
Chairman of the Alaska  
Public Utilities Commission

ORIGINAL

STATE OF ALASKA

THE ALASKA PUBLIC UTILITIES COMMISSION

Before Commissioners:

Sam Cotten, Chairman  
Alyce A. Hanley  
Dwight D. Ornquist  
Tim Cook  
James M. Posey

In the Matter of the Request by GCI )  
COMMUNICATION CORP. d/b/a GENERAL )  
COMMUNICATION, INC., and d/b/a GCI )  
for Designation as a Carrier )  
Eligible To Receive Support for )  
Interexchange Services to Rural )  
Health Care Providers )

U-97-173

ORDER NO. 2

In the Matter of the Request by KING )  
SALMON COMMUNICATIONS, INC., for )  
Designation as a Carrier Eligible )  
To Receive Support for Interexchange )  
Services to Rural Health Care )  
Providers )

U-97-206

ORDER NO. 2

In the Matter of the Request by )  
TELALASKA LONG DISTANCE, INC., for )  
Designation as a Carrier Eligible )  
To Receive Support for Interexchange )  
Services to Rural Health Care )  
Providers )

U-97-207

ORDER NO. 2

In the Matter of the Request by MTA )  
LONG DISTANCE, INC., for Designation )  
as a Carrier Eligible To Receive )  
Support for Interexchange Services )  
to Rural Health Care Providers )

U-97-212

ORDER NO. 2

1 In the Matter of the Request by OTZ )  
 2 TELECOMMUNICATIONS, INC., for )  
 3 Designation as a Carrier Eligible )  
 4 To Receive Support for Interexchange )  
 5 Services to Rural Health Care )  
 6 Providers )

U-97-216

ORDER NO. 2

ORDER DENYING REQUESTS FOR DESIGNATION AS CARRIERS  
 ELIGIBLE TO RECEIVE SUPPORT FOR INTEREXCHANGE SERVICES  
 TO RURAL HEALTH CARE PROVIDERS; ADOPTING PROPOSAL FOR THE  
 PROVISION OF SERVICE TO RURAL HEALTH CARE PROVIDERS; AND  
 AFFIRMING ORAL RULINGS GRANTING PETITIONS FOR INTERVENTION

BY THE COMMISSION:

Introduction

By Order U-97-173<sup>1</sup> (hereinafter, Order No. 1), dated November 7, 1997, the Commission, among other things, initiated investigations into the applications filed by GCI COMMUNICATION CORP. d/b/a GENERAL COMMUNICATION, INC., and d/b/a GCI (GCI);<sup>2</sup> KING SALMON COMMUNICATIONS, INC. (KSCI);<sup>3</sup> TELALASKA LONG DISTANCE, INC. (TALD);<sup>4</sup> MTA LONG DISTANCE (MTA-LD);<sup>5</sup> OTZ TELECOMMUNICATIONS, INC. (OTZ Telecom).<sup>6</sup> The applicants requested designation as eligible carriers to receive federal universal service support for

<sup>1</sup>Issued as part of a joint decision published as Order U-97-173(1)/U-97-206(1)/U-97-207(1)/U-97-212(1)/U-97-216(1).

<sup>2</sup>Docket U-97-173.

<sup>3</sup>Docket U-97-206.

<sup>4</sup>Docket U-97-207.

<sup>5</sup>Docket U-97-212.

<sup>6</sup>Docket U-97-216.



1 interexchange services provided to Rural Health Care Providers  
2 (RHCPs) throughout Alaska.

3 Comments in opposition to GCI's application were filed by  
4 UNITED UTILITIES, INC. (UUI); INTERIOR TELEPHONE COMPANY, INC.  
5 (ITC); MUKLUK TELEPHONE COMPANY, INC. (Mukluk); OTZ TELEPHONE COOP-  
6 ERATIVE, INC. (OTZ); BRISTOL BAY TELEPHONE COOPERATIVE, INC.  
7 (BBTC); KSCI; and TALD.

8 Also by Order No. 1,<sup>7</sup> the Commission designated intervenor  
9 status in Docket U-97-173 to BBTC; KSCI; MTA-LD; OTZ Telecom;  
10 UNICOM, INC. (Unicom); and UUI, subject to the submission of state-  
11 ments of nonparticipation. On November 12, 1997, Unicom filed a  
12 statement of nonparticipation.

13 On November 12, 1997, ALASCOM, INC. d/b/a AT&T ALASCOM  
14 (AT&T Alascom), filed petitions to intervene in Dockets U-97-173,  
15 U-97-206, U-97-207, U-97-212, and U-97-216. On the same date, GCI  
16 filed petitions to intervene in Dockets U-97-206, U-97-207,  
17 U-97-212, and U-97-216. By oral ruling issued November 14, 1997,  
18 the Commission granted AT&T Alascom and GCI intervenor status.<sup>8</sup>

19 The hearing in this matter convened, as scheduled, on  
20 November 18, 1997. At the hearing, all parties presented legal  
21 argument in support of their positions. In addition, GCI presented  
22 the testimony of Greg Jones, Vice President and General Manager of  
23

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24 <sup>7</sup>See n. 1.

25 <sup>8</sup>All parties were telephonically notified on the same date that  
26 the petitions to intervene were granted.

1 Long Distance and Vice President of Rural Services. ITC, Mukluk,  
2 OTZ, BBTC, and KSCI (hereinafter referred to as the Rural LECs)  
3 presented the testimony of Michael Wrobleski, attorney; Thomas R.  
4 Meade, Manager of Regulatory Affairs for TelAlaska; and Michael  
5 Burke, Vice President of Finance for TelAlaska and TALD.

6 GCI argued that the applicable Federal Communications  
7 Commission (FCC) regulation provides that telecommunications ser-  
8 vice of a bandwidth up to and including 1.544 megabytes per second  
9 that is the subject of a properly completed, bona fide request by  
10 a rural health care provider is eligible for Universal Service Sup-  
11 port. According to FCC regulation, the length of the supported  
12 telecommunications service may not exceed the distance between the  
13 health care provider and the point farthest from that provider to  
14 the jurisdictional boundary of the nearest large city as defined in  
15 Section 54.605(c). GCI contended that it was undisputed that the  
16 only large city within that definition in Alaska is Anchorage.  
17 Therefore, GCI argued that the supported telecommunications service  
18 would be interexchange service and that GCI, as an interexchange  
19 carrier (IXC), should be designated as a carrier eligible to  
20 receive support for service provided to RHCPs.

21 GCI stated that it intends to provide service to RHCPs  
22 through dedicated lines, typically 56 kilobytes, but also 128 or  
23 256 kilobytes, if needed. These lines would permit a full range of  
24 services to RHCPs including voice and data transmission. GCI esti-  
25 mated that service would be provided to approximately 250 RHCPs.  
26

1 If service to each RHCP cost the maximum amount for a dedicated  
2 line of 56 kilobytes, or \$3,000 per month, then the annual total  
3 cost would be approximately \$9 million.

4 GCI stated that to receive the federal subsidy for the  
5 service, a RHCP is required to solicit competitive bids on the  
6 internet site established by the Rural Health Care Corporation  
7 (RHCC) formed by the FCC. The three elements of service: (1)  
8 originating local exchange company (LEC) service; (2) IXC service;  
9 and (3) terminating LEC service can be competitively bid in areas  
10 where competitive service is available. Generally, in Alaska  
11 competitive service is available for the IXC segment and the  
12 terminating LEC segment in Anchorage.

13 AT&T Alascom concurred with GCI's position. In addition,  
14 AT&T Alascom contended that RHCPs in Alaska would not be able to  
15 take advantage of Federal Universal Service discounts for qualify-  
16 ing services if IXCs were found ineligible. Therefore, AT&T  
17 Alascom requested limited eligibility status for facilities-based  
18 IXCs.

19 The Rural LECs argued that there were three links  
20 necessary to provide telecommunications services to RHCPs. First,  
21 there is a link between the RHCP and the satellite earth station in  
22 the local community, a service that is provided by the LEC.  
23 Second, there is a link from the satellite earth station to the  
24 satellite and then from the satellite to the earth station in  
25 terminating destination, a service that is provided by the IXCs.  
26

1 Finally, there is a link from the satellite earth station to the  
2 health care provider in the terminating destination, a service that  
3 is provided by an LEC. The Rural LECs proposed that LECs be desig-  
4 nated eligible carriers and be permitted to package the services  
5 necessary to provide complete end-to-end service to RHCPs. Under  
6 the Rural LECs proposal, LECs would be responsible for performing  
7 billing and collection functions as well as distributing any fed-  
8 eral subsidies to the appropriate carriers.

9 The Rural LECs contended that their proposal was compar-  
10 able to the current system for billing and collection for message  
11 toll service. The Rural LECs stated that they neither market prod-  
12 ucts for IXCs nor terminate calls but, rather, provide the link to  
13 the IXC's earth station and bill consumers the level of message  
14 toll service reported by IXCs.

15 Under the Rural LECs proposal, the RHCP will determine  
16 which IXC bid to accept. The Rural LECs would then repackage and  
17 rebill the bid accepted by the RHCP.

18 The Rural LECs stated that the FCC's Universal Service  
19 Order (USO) determined that the rural health care subsidy program  
20 should not exceed \$400 million annually. The FCC estimated that  
21 there are approximately 12,000 health care providers in rural areas  
22 that are eligible for support. The FCC contemplated a nationwide  
23 average transmission of approximately 100 miles. The Rural LECs  
24 contended that the distances in Alaska were much greater than those  
25 contemplated by the FCC and, as a result, the subsidy funds claimed  
26

1 for Alaska could be in the range of \$30 to \$60 million, or approxi-  
2 mately 10 to 15 percent of the nationwide total. The Rural LECs  
3 argued that the level of subsidy to Alaska will give other RHCPs in  
4 other parts of the nation an incentive to contest the level of  
5 federal subsidies flowing to Alaska.

6 The Rural LECs argued that eligible carriers must provide  
7 an array of core services defined at 47 C.F.R. 54.101(a). In addi-  
8 tion, eligible carriers must provide those services with facilities  
9 owned by the carrier or with a combination of facilities owned by  
10 the carrier and purchase from a reseller. Finally, those services  
11 must be advertised throughout the service area. The Rural LECs  
12 contended that IXCs are not eligible carriers because IXCs do not  
13 provide the array of core local exchange services required.

14 TALD stated that it did not own facilities but rather  
15 resold the services of other IXCs. TALD contended that, as a  
16 reseller, it was dependent on the facilities-based carrier in terms  
17 of the services that can be provided to RHCPs. Given the current  
18 method of providing service, TALD argued that a well-crafted whole-  
19 sale tariff was important to allow competition in the provision of  
20 interexchange services.

21 The Rural LECs requested that IXCs not be designated as  
22 eligible for Universal Service support for RHCPs. The IXCs with  
23 pending applications (KSCI, TALD, MTA-LD, and OTZ Telecom) agreed  
24 that the outcome of Docket U-97-173 would be controlling precedent  
25 for their applications and that if GCI's application were to be  
26

1 denied, their applications would also be denied. Conversely, if  
2 GCI's application were to be granted, then they requested the  
3 opportunity for evidentiary hearings on their applications.

4 The IXCs (other than GCI) in these proceedings argued  
5 that IXCs should not be designated eligible carriers to provide  
6 service to RHCPs. However, if the Commission agreed with GCI's  
7 proposal, they requested the same designation.

8 UUI concurred with the position of the Rural LECs. That  
9 is, that only telecommunications carriers that provide the full  
10 array of core services can become eligible telecommunications car-  
11 riers for universal service support purposes. UUI contended that  
12 this position was consistent with the purpose of universal service  
13 support, which is to support primarily local exchange, not interex-  
14 change, services. Therefore, UUI argued that GCI's petition should  
15 be denied.

16 At the conclusion of the hearing, the Commission directed  
17 that post-hearing briefs limited to five pages be submitted in lieu  
18 of closing argument.

19 In their post-hearing brief, the Rural LECs argued that  
20 GCI and AT&T Alascom were ineligible for federal subsidies and  
21 restated their proposal for provide service to RHCPs as follows:

22 [A] rural health care provider would submit its request  
23 for telecommunications services to the Rural Health Care  
24 Corporation (RHCC). The RHCC would post the request for  
25 services on its website. All interested IXCs would  
26 submit a bid directly to the rural health care provider  
for that portion of the requested telecommunications ser-  
vices that it is able to provide. The rural health care

1 provider would select the IXC and notify the rural LEC of  
2 the selection. The rural LEC would provide the local  
3 link between the rural health care provider's facilities  
4 and the selected IXC's facilities, and package the end-  
5 to-end services that the rural health care provider  
6 seeks. The rural LEC would also handle the billing to  
7 the rural health care provider as well as the RHCC in  
8 order to obtain the federal subsidies.

9 MATANUSKA TELEPHONE ASSOCIATION, INC. (MTA), concurred in the post-  
10 hearing brief filed by the Rural LECs.

11 In their post-hearing briefs, BBTC and UUI asserted that  
12 IXCs should not be designated as eligible carriers. GCI and AT&T  
13 Alascom supported IXCs being designated as eligible carriers to  
14 provide interexchange service to RHCPs.

15 A second public notice was issued on December 1, 1997,  
16 identifying the applicants and seeking comments on the Rural LEC  
17 proposal. In response to the notice, on December 10, 1997, UUI  
18 filed a statement in support of the Rural LEC proposal. GCI filed  
19 a statement referencing the arguments presented in its post-hearing  
20 brief opposing the Rural LECs proposal. AT&T Alascom filed a  
21 statement supporting the Rural LECs proposal provided the proposal  
22 was clarified and the following conditions were met:

23 1. Bidding and selection of the carriers for each  
24 segment (originating LEC, IXC, and terminating LEC) for RHCP  
25 service should be as simple as possible, with IXCs having the  
26 ability to include all three segments of service in their bid.

2. Billing and collection of services would be handled  
fairly and economically.

3           4. The originating LEC should not be permitted to "drive  
4 a wedge" between AT&T Alascom and its RHCP customer.

5            5. All Rural LECs must operate under the proposal.

## Issues

1. Whether an IXC can be designated a carrier eligible  
to receive support for the provision of interexchange services to  
RHCPs?

11                   2. What is the best method to ensure that RHCPs receive  
12 the benefit of the federal universal service funding system?

## Discussion

14           The Commission has determined that it will address the  
15 issue of whether an IXC is eligible for designation as a carrier  
16 eligible to receive support for interexchange services to RHCPs in  
17 the context of Docket U-97-173. The Commission's ruling in this  
18 proceeding will serve as controlling precedent for all other  
19 outstanding applications regarding this issue.

It is undisputed that Alaskan carriers must receive eligible carrier status from the Commission as a prerequisite for receipt of federal universal service funding for qualifying telecommunications services to RHCPS.<sup>9</sup> Section 214(e)(1) of the

<sup>9</sup>See 47 U.S.C. Section 214(3) and 47 C.F.R. Section 54.201.



1 Telecommunications Act of 1996 (The Act)<sup>10</sup> provides the criteria a  
2 carrier must meet to be deemed eligible for universal service sup-  
3 port. Those criteria are as follows:

4 A common carrier designated as an eligible telecommunica-  
5 tions carrier under paragraph (2) or (3) shall be eligible  
6 to receive universal service support in accordance with  
section 254 of this title and shall, throughout the  
service area for which the designation is received -

7 (A) offer the services that are supported by  
8 Federal universal service support mechanisms under  
9 section 254(c) of this title, either using its own  
10 facilities or a combination of its own facilities  
and resale of another carrier's services (including  
the services offered by another eligible telecom-  
munications carrier); and

11 (B) advertise the availability of such services  
12 and the charges therefore using media of general  
distribution.

13  
14 Section 254(c) of the Act provides, in pertinent part,  
15 that the FCC, in establishing services supported by the federal  
16 universal service fund, should consider the extent services are  
17 essential to education, public health, or public safety, and  
18 whether the services meet other specified criteria. Section  
19 254(c)(3) allows the FCC to include for support health care  
20 providers not otherwise designated under paragraph (1).

21 The regulations of the FCC at 47 C.F.R. Section 54.-  
22 201(d)(1) provide, in pertinent part, as follows:

23 A common carrier designated as an eligible telecommunica-  
24 tions carrier under this section shall be eligible to  
receive universal service support in accordance with

25 \_\_\_\_\_

26 <sup>10</sup>47 U.S.C. 151, *et seq.*, as amended by the Act.

1 Section 254 of the Act and shall, throughout the service  
2 area for which the designation is received:

3 (1) offer the services that are supported by  
4 federal universal service support mechanisms under  
5 subpart B of this part and Section 254(c) of the  
6 Act, either using its own facilities or a combina-  
7 tion of its own facilities and resale of another  
8 carrier's services . . . .

9 The FCC defines Subpart B services in 47 C.F.R. 54.101(a), as  
10 follows:

- 11 1. voice grade access to the public switched net-  
12 work;
- 13 2. local usage;
- 14 3. dual tone multi-frequency signaling or its func-  
15 tional equivalent;
- 16 4. single-party service or its functional equiva-  
17 lent;
- 18 5. access to emergency services;
- 19 6. access to operator services;
- 20 7. access to interexchange services;
- 21 8. access to directory assistance; and
- 22 9. toll limitation for qualifying low-income con-  
23 sumers (including LinkUp services).<sup>11</sup>

24 The FCC further requires that "[a]ll eligible telecommuni-  
25 cations carriers shall make available Lifeline service, as defined

26 <sup>11</sup>Each of the above basic services is defined at 47 C.F.R. Section 54.101(a) except "LinkUp" service which is defined at 47 C.F.R. Section 54.411.

1 in Section 54.401, to qualifying low-income consumers. (47 C.F.R.  
2 Section 54.405.) Lifeline and LinkUp services allow qualifying  
3 low-income consumers to receive reduced local rates and reduced  
4 charges for commencing telephone service. Specifically, Lifeline  
5 provides a reduction to the basic local service rate and federal  
6 subscriber line charge payments. LinkUp provides a reduction to  
7 the carrier's customary nonrecurring charge for commencing telecom-  
8 munications service at a consumer's principal place of residence.

9 The primary issue in this proceeding is whether an IXC  
10 can be designated a carrier eligible to receive support for the  
11 provision of interexchange services to RHCPs. The Commission has  
12 determined that IXCs cannot be designated eligible carriers.

13 The Commission has determined that Section 214(e)(1) sets  
14 forth a two-part test for establishing carrier eligibility. First,  
15 a common carrier shall offer the services that are supported by  
16 federal universal service support mechanisms under Section 254(c)  
17 throughout its service area. Section 254(c) provides that the FCC,  
18 in establishing services supported by the federal universal service  
19 fund, should consider the extent to which services are essential  
20 to, among other things, public health and whether the services meet  
21 other specified criteria. This Section includes the provision of  
22 service to RHCPs. Section 254(c) makes it clear that the FCC has  
23 the discretion to consider general policy considerations such as  
24 "public health" and to determine whether the services meet other  
25

26

1 specified criteria. Moreover, the services defined in Sec-  
2 tion 254(c) must be provided either using a carrier's own facili-  
3 ties or a combination of the carrier's own facilities and resale of  
4 another carrier's services. (Section 214(e)(1).) Second, the  
5 carrier must advertise the availability of those services using  
6 media of general distribution.

7 Once the initial two-part test set forth in Sec-  
8 tion 214(e)(1) is fulfilled, it is necessary to review the  
9 applicable FCC regulations for further guidance regarding the obli-  
10 gations of eligible carriers.

11 FCC regulation, 47 C.F.R. 54.201(d)(1), provides further  
12 guidance regarding the criteria required to be designated as an  
13 eligible carrier. That regulation establishes a tripartite test  
14 for eligibility: (1) offering the services supported by federal  
15 universal service support mechanisms under Subpart B; (2) offering  
16 the services supported by Section 254(c) of the Act; and (3)  
17 offering those services using the carrier's own facilities or a  
18 combination of owned facilities and resale.

19 The requirements set forth in 47 C.F.R. 54.201(d)(1) are  
20 mandatory, not discretionary. The regulation provides, in perti-  
21 nent part, that:

22 [A] common carrier designated as an eligible telecom-  
23 munications carrier under this section . . . shall,  
24 throughout the service area for which the designation is  
received:

25 (1) offer the services that are supported by  
26 federal universal service support mechanisms under

1           subpart B of this part **and** Section 254(c) of the Act  
2           . . . . (Emphasis supplied.)

3       The aforementioned regulation is clear that common carriers desig-  
4       nated as eligible carriers are required to provide both the ser-  
5       vices in Subpart B and Section 254(c). The specific services  
6       provided in Subpart B include, but are not limited to, local usage  
7       and access to interexchange service. It is apparent that the  
8       specific services in Subpart B can only be provided by an LEC.

9           In addition, the FCC has required all eligible carriers  
10       to make Lifeline and LinkUp services available to consumers. As  
11       previously cited in this Order, Lifeline and LinkUp services are  
12       services designed to promote the usage of the local exchange net-  
13       work by providing a reduction in the cost of connecting to the  
14       public switched network and by providing a reduction in the basic  
15       local service rate and federal subscriber line charge payments once  
16       connected to the network. Both Lifeline and LinkUp services are  
17       services associated with the provision of local exchange service  
18       and can only be provided by LECs.

19           After considering all applicable provisions of the Act  
20       and FCC regulations regarding "eligible carriers" in concert, the  
21       Commission has determined that an IXC cannot be designated an  
22       eligible carrier to receive support for services to RHCPs.

23           If IXCs cannot be designated eligible carriers, then the  
24       Commission must determine the best method to ensure that RHCPs have  
25       the opportunity to receive federal universal service support. The  
26

1 Commission has reviewed the proposal submitted by the Rural LECs  
2 and the modified proposal submitted by AT&T Alascom. The Commis-  
3 sion has determined that the proposal submitted by the Rural LECs  
4 is reasonable and should be adopted for the provision of service to  
5 RHCPs in Alaska.

6 The Commission reiterates its determination that only  
7 LECs may be designated eligible carriers to provide service to  
8 RHCPs. The designation of specific telecommunications carriers as  
9 "eligible carriers" was completed in separate dockets and will not  
10 be addressed in the context of this Order.<sup>12</sup>

11 With respect to the specific method for providing service  
12 to RHCPs, the Commission recognizes that a new procedure must be  
13 developed and that the exact details of the entire procedure may  
14 not be resolved in this Order. However, the proposal submitted by  
15 the Rural LECs will serve as the general outline for the provision  
16 of such service to RHCPs. That is, the RHCPs will submit requests  
17 for service to the RHCC. The RHCC will publish the requests for  
18 service through its internet website. All interested telecommuni-  
19 cations service providers will respond to the requests for service  
20 with bid proposals. The RHCPs will evaluate the bid proposals  
21 submitted and will select the proposal that best serves the needs  
22

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23  
24 <sup>12</sup>See Dockets U-97-145, U-97-157, U-97-159, U-97-162, U-97-164,  
25 U-97-168, U-97-169, U-97-170, U-97-172, U-97-174, U-97-175,  
26 U-97-176, U-97-177, U-97-178, U-97-179, U-97-180, U-97-181,  
U-97-183, U-97-184, U-97-185, U-97-187, U-97-189, U-97-190, and  
U-97-197.

1 of the RHCP. The RHCP will notify the Rural LEC of the bid pro-  
2 posal selected. The Rural LECs will be responsible for repackaging  
3 the successful bid proposal to provide end-to-end service to the  
4 RHCP. The Rural LECs will also be responsible for the billing and  
5 collection functions required to provide service to the RHCPs.  
6 Such billing and collection functions include billing the RHCP for  
7 service, billing the RHCC for federal subsidies, collecting the  
8 federal subsidies from the RHCC, and distributing the subsidies to  
9 the telecommunications carriers providing service.

10 While at first blush the aforementioned procedure may  
11 appear complicated, the Commission has determined that the billing  
12 and collection functions to be performed in conjunction with  
13 service to RHCPs are not so appreciably different from message toll  
14 service billing and collection functions as to render LECs incapa-  
15 ble of performing the necessary tasks. The Commission has further  
16 determined that LECs have significant experience in billing and  
17 collection functions associated with message toll service and have  
18 demonstrated the ability to capably perform those functions.

19 The Commission has further determined that the Rural LECs  
20 proposal is revenue neutral to IXCs. That is, the IXCs would not  
21 be entitled to any greater level of funding whether IXCs were  
22 designated eligible carriers or LECs were designated eligible  
23 carriers.

24 Moreover, the Rural LECs proposal does not interject any  
25 Rural LEC control over service to the RHCPs. The RHCPs determine  
26

1 the necessary service requirements and place those requirements in  
2 the request for service presented to the RHCC. The RHCC publishes  
3 the request for service in a manner that ensures that all inter-  
4 ested telecommunications carriers have the opportunity to competi-  
5 tively bid on the service request. The RHCP selects the bid pro-  
6 posal that best serves its needs. Thus, the Rural LEC merely  
7 implements the service requirements established by the RHCPs and  
8 ensures that federal universal service funding is collected.

9 This Order constitutes the final decision on the issues  
10 in Docket U-97-173. This decision is appealable within thirty days  
11 of the date of this Order in accordance with AS 22.10.020(d) and  
12 the Alaska Rules of Court, Rules of Appellate Procedures,  
13 Rule 602(a)(2). In addition to the appellate rights afforded by  
14 the aforementioned statute, a party may file a petition for recon-  
15 sideration in accordance with 3 AAC 48.105. In the event such a  
16 petition is filed, the time period for filing an appeal is then  
17 calculated in accordance with *Alaska Rules of Court, Rules of*  
18 *Appellate Procedure, Rule 602(a)(2).*

19  
20 **ORDER**

21 THE COMMISSION FURTHER ORDERS:

22 1. The application filed by GCI Communication Corp.  
23 d/b/a General Communication, Inc., and d/b/a GCI for designation as  
24 a carrier eligible to receive federal universal service support for  
25  
26



1 interexchange services provided to rural health care providers is  
2 denied.

3           2. The application filed by King Salmon Communications,  
4 Inc., for designation as a carrier eligible to receive federal  
5 universal service support for interexchange services provided to  
6 rural health care providers is denied.

7           3. The application filed by TelAlaska Long Distance,  
8 Inc., for designation as a carrier eligible to receive federal  
9 universal service support for interexchange services provided to  
10 rural health care providers is denied.

11           4. The application filed by MTA Long Distance, Inc., for  
12 designation as a carrier eligible to receive federal universal  
13 service support for interexchange services provided to rural health  
14 care providers is denied.

15           5. The application filed by OTZ Telecommunications,  
16 Inc., for designation as a carrier eligible to receive federal  
17 universal service support for interexchange services provided to  
18 rural health care providers is denied.

19           6. As more fully discussed in the body of this Order,  
20 the proposal for provision of service to Rural Health Care  
21 Providers submitted by the Rural Local Exchange Carriers is  
22 adopted.

23           7. The oral ruling granting the petition to intervene  
24 filed by Alascom, Inc. d/b/a AT&T Alascom is affirmed.  
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